

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

DANIEL RICHARD HURLEY, GX-2685	)	
Petitioner,	)	
	)	
v.	)	2:16-CV-1891
	)	
WARDEN BRIAN THOMPSON, et al.	)	
Respondents.	)	

MEMORANDUM and ORDER

Daniel Richard Hurley an inmate at the State Correctional Institution- Mercer has presented a petition for a writ of habeas corpus.

Hurley is presently serving a 16 to 32 year sentence following his conviction by a jury of criminal attempt – homicide, aggravated assault, aggravated assault with a weapon, carrying a firearm without a license, and person not to possess or use a firearm at No. CC200516287 in the Court of Common Pleas of Allegheny County, Pennsylvania. This sentence was imposed on December 12, 2006.<sup>1</sup>

However, this is not Hurley's first federal challenge to these convictions. At 2:12-CV-557 he likewise sought federal relief on these same changes. The latter petition was dismissed on the merits on July 31, 2012 (ECF Nos.17, 18) and no appeal was pursued.

Hurley has once again submitted a habeas petition to this Court again seeking to challenge these same convictions.

The Antiterrorism and Effective Death Penalty Act, signed into law on April 24, 1996, included several major reforms to the federal habeas corpus laws. As part of this habeas corpus reform, Congress amended 28 U.S.C. § 2244 to prohibit district courts from entertaining claims presented in a second or successive habeas corpus application unless the appropriate federal court of appeals authorizes such filing. The relevant amended language provides as follows:

(A) Before a second or successive application permitted by this section is filed in the district court, the applicant shall move in the appropriate court of appeals for an order authorizing the district court to consider the application.

(B) A motion in the court of appeals for an order authorizing the district court to consider a second or successive application shall be determined by a three-judge

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<sup>1</sup> See: Petition at ¶¶ 1-6.

panel of the court of appeals.

(C) The court of appeals may authorize the filing of a second or successive application only if it determines that the application makes a prima facie showing that the application satisfies the requirements of this subsection.

(D) The court of appeals shall grant or deny the authorization to file a second or successive application not later than 30 days after the filing of the motion.

(E) The grant or denial of an authorization by a court of appeals to file a second or successive application shall not be appealable and shall not be the subject of a petition for rehearing or for a writ of certiorari.

28 U.S.C. § 2244(b)(3).

An appropriate Order will be entered.

ORDER

AND NOW, this 22<sup>nd</sup> day of December, 2016, IT IS ORDERED that on or before January 13, 2017, the petitioner show cause, if any, why the petition should not be dismissed as submitted without leave having first being obtained from the Court of Appeals.

s/ Robert C. Mitchell  
United States Magistrate Judge